

ASSEMBLY BILL

No. 2166

Introduced by Assembly Member Feuer

February 23, 2012

An act to amend Sections 25251, 25252, 25253, 25254, and 25256.1 of the Health and Safety Code, relating to hazardous materials.

LEGISLATIVE COUNSEL'S DIGEST

AB 2166, as introduced, Feuer. Hazardous materials: chemicals of concern.

Existing law requires the Department of Toxic Substances Control to adopt regulations to establish a process to identify and prioritize chemicals or chemical ingredients in consumer products, to establish a process for evaluating chemicals of concern in consumer products and their potential alternatives for the purposes of limiting exposure or to reduce the level of hazard posed by chemicals of concern, and a range of regulatory responses that the department may take following the evaluation. Existing law requires the department to appoint members to the Green Ribbon Science Panel, which provides advice to the department in the implementation of the above provisions. Existing law requires the Office of Environmental Health Hazard Assessment to evaluate and specify the hazard traits, and environmental and toxicological end-point data.

This bill would delete obsolete provisions in the above provisions.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

SECTION 1. Section 25251 of the Health and Safety Code is amended to read:

25251. For purposes of this article, the following definitions shall apply:

(a) "Clearinghouse" means the Toxics Information Clearinghouse established pursuant to Section 25256.

(b) "Council" means the California Environmental Policy Council established pursuant to subdivision (b) of Section 71017 of the Public Resources Code.

(c) "Office" means Office of Environmental Health Hazard Assessment.

(d) "Panel" means the Green Ribbon Science Panel established pursuant to Section 25254.

(e) "Consumer product" means a product or part of the product that is used, ~~brought~~ *bought*, or leased for use by a person for any purposes. "Consumer product" does not include any of the following:

(1) A dangerous drug or dangerous device as defined in Section 4022 of the Business of Professions Code.

(2) Dental restorative materials as defined in subdivision (b) of Section 1648.20 of the Business and Professions Code.

(3) A device as defined in Section 4023 of the Business of Professions Code.

(4) A food as defined in subdivision (a) of Section 109935.

(5) The packaging associated with any of the items specified in paragraph (1), (2), or (3).

(6) A pesticide as defined in Section 12753 of the Food and Agricultural Code or the Federal Insecticide, Fungicide and Rodenticide (7 United States Code Sections 136 and following).

~~(f) This section shall become effective on January 1, 2012.~~

SEC. 2. Section 25252 of the Health and Safety Code is amended to read:

25252. (a) ~~On or before January 1, 2011, the~~ *The* department shall adopt regulations to establish a process to identify and prioritize those chemicals or chemical ingredients in consumer products that may be considered as being a chemical of concern, in accordance with the review process specified in Section 25252.5. The department shall adopt these regulations in consultation with

1 the office and all appropriate state agencies and after conducting
2 one or more public workshops for which the department provides
3 public notice and provides an opportunity for all interested parties
4 to comment. The regulations adopted pursuant to this section shall
5 establish an identification and prioritization process that includes,
6 but is not limited to, all of the following considerations:

7 (1) The volume of the chemical in commerce in this state.

8 (2) The potential for exposure to the chemical in a consumer
9 product.

10 (3) Potential effects on sensitive subpopulations, including
11 infants and children.

12 (b) (1) In adopting regulations pursuant to this section, the
13 department shall develop criteria by which chemicals and their
14 alternatives may be evaluated. These criteria shall include, but not
15 be limited to, the traits, characteristics, and endpoints that are
16 included in the clearinghouse data pursuant to Section 25256.1.

17 (2) In adopting regulations pursuant to this section, the
18 department shall reference and use, to the maximum extent feasible,
19 available information from other nations, governments, and
20 authoritative bodies that have undertaken similar chemical
21 prioritization processes, so as to leverage the work and costs
22 already incurred by those entities and to minimize costs and
23 maximize benefits for the state's economy.

24 (3) Paragraph (2) does not require the department, when
25 adopting regulations pursuant to this section, to reference and use
26 only the available information specified in paragraph (2).

27 SEC. 3. Section 25253 of the Health and Safety Code is
28 amended to read:

29 25253. (a) (1) ~~On or before January 1, 2011, the~~ *The*
30 department shall adopt regulations pursuant to this section that
31 establish a process for evaluating chemicals of concern in consumer
32 products, and their potential alternatives, to determine how best
33 to limit exposure or to reduce the level of hazard posed by a
34 chemical of concern, in accordance with the review process
35 specified in Section 25252.5. The department shall adopt these
36 regulations in consultation with all appropriate state agencies and
37 after conducting one or more public workshops for which the
38 department provides public notice and provides an opportunity for
39 all interested parties to comment.

(2) The regulations adopted pursuant to this section shall establish a process that includes an evaluation of the availability of potential alternatives and potential hazards posed by those alternatives, as well as an evaluation of critical exposure pathways. This process shall include life cycle assessment tools that take into consideration, but shall not be limited to, all of the following:

- (A) Product function or performance.
- (B) Useful life.
- (C) Materials and resource consumption.
- (D) Water conservation.
- (E) Water quality impacts.
- (F) Air emissions.
- (G) Production, in-use, and transportation energy inputs.
- (H) Energy efficiency.
- (I) Greenhouse gas emissions.
- (J) Waste and end-of-life disposal.
- (K) Public health impacts, including potential impacts to sensitive subpopulations, including infants and children.
- (L) Environmental impacts.
- (M) Economic impacts.

(b) The regulations adopted pursuant to this section shall specify the range of regulatory responses that the department may take following the completion of the alternatives analysis, including, but not limited to, any of the following actions:

- (1) Not requiring any action.
- (2) Imposing requirements to provide additional information needed to assess a chemical of concern and its potential alternatives.
- (3) Imposing requirements on the labeling or other type of consumer product information.
- (4) Imposing a restriction on the use of the chemical of concern in the consumer product.
- (5) Prohibiting the use of the chemical of concern in the consumer product.
- (6) Imposing requirements that control access to or limit exposure to the chemical of concern in the consumer product.
- (7) Imposing requirements for the manufacturer to manage the product at the end of its useful life, including recycling or responsible disposal of the consumer product.

1 (8) Imposing a requirement to fund green chemistry challenge
2 grants where no feasible safer alternative exists.

3 (9) Any other outcome the department determines accomplishes
4 the requirements of this article.

5 (c) The department, in developing the processes and regulations
6 pursuant to this section, shall ensure that the tools available are in
7 a form that allows for ease of use and transparency of application.
8 The department shall also make every feasible effort to devise
9 simplified and accessible tools that consumer product
10 manufacturers, consumer product distributors, product retailers,
11 and consumers can use to make consumer product manufacturing,
12 sales, and purchase decisions.

13 SEC. 4. Section 25254 of the Health and Safety Code is
14 amended to read:

15 25254. (a) In implementing this article, the department shall
16 establish a Green Ribbon Science Panel. The panel shall be
17 composed of members whose expertise shall encompass all of the
18 following disciplines:

- 19 (1) Chemistry.
- 20 (2) Chemical engineering.
- 21 (3) Environmental law.
- 22 (4) Toxicology.
- 23 (5) Public policy.
- 24 (6) Pollution prevention.
- 25 (7) Cleaner production methods.
- 26 (8) Environmental health.
- 27 (9) Public health.
- 28 (10) Risk analysis.
- 29 (11) Materials science.
- 30 (12) Nanotechnology.
- 31 (13) Chemical synthesis.
- 32 (14) Research.
- 33 (15) Maternal and child health.

34 ~~(b) The department shall appoint all members to the panel on~~
35 ~~or before July 1, 2009.~~ The department shall appoint the members
36 for staggered three-year terms, and may reappoint a member for
37 additional terms, without limitation.

38 (c) The panel shall meet as often as the department deems
39 necessary, with consideration of available resources, but not less

1 than twice each year. The department shall provide for staff and
2 administrative support to the panel.

3 (d) The panel meetings shall be open to the public and are
4 subject to the Bagley-Keene Open Meeting Act (Article 9
5 (commencing with Section 11120) of Chapter 1 of Part 1 of
6 Division 3 of Title 2 of the Government Code).

7 SEC. 5. Section 25256.1 of the Health and Safety Code is
8 amended to read:

9 25256.1. ~~On or before January 1, 2011, the~~ *The* office shall
10 evaluate and specify the hazard traits and environmental and
11 toxicological end-points and any other relevant data that are to be
12 included in the clearinghouse. The office shall conduct this
13 evaluation in consultation with the department and all appropriate
14 state agencies, after one or more public workshops, and an
15 opportunity for all interested parties to comment. The office may
16 seek information from other states, the federal government, and
17 other nations in implementing this section.